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| Client: 50588 | Matter: 44 |
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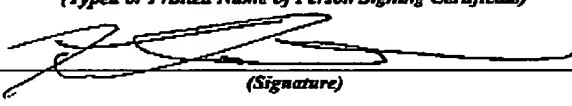
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COMMENTS:

Attached is a Response to Notice of Non-Compliant Amendment for Serial No. 09/916,635, filed July 27, 2001, entitled REMOTE CONTROL DEVICE WITH INTEGRATED DISPLAY SCREEN FOR CONTROLLING A DIGITAL VIDEO RECORDER.

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| CERTIFICATE OF TRANSMISSION BY FACSIMILE (37 CFR 1.8) | | | Docket No. |
| Applicant(s): Paul G. Allen and James A. Billmaier | | | 50588/44 |
| Application No. 09/916,635 | Filing Date July 27, 2001 | Examiner Jean Wicel Desir | Group Art Unit 2614 |
| Invention: REMOTE CONTROL DEVICE WITH INTEGRATED DISPLAY SCREEN FOR CONTROLLING A DIGITAL VIDEO RECORDER | | | |
| <p>I hereby certify that this <u>Response to Notice of Non-Compliant Amendment (17 pgs.)</u> <i>(Identify type of correspondence)</i></p> <p>is being facsimile transmitted to the United States Patent and Trademark Office (Fax. No. <u>(571) 273-8300</u>)</p> <p>on <u>August 9, 2005</u> <i>(Date)</i></p> <p style="text-align: center;"><u>Kory D. Christensen</u> <i>(Typed or Printed Name of Person Signing Certificate)</i></p> <p style="text-align: center;"> <i>(Signature)</i></p> <p>Note: Each paper must have its own certificate of mailing.</p> <p>Transmittal: Notice of Non-Compliant Amendment (37 CFR 1.121) (2 pgs.)</p> | | | |

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CERTIFICATE OF FILING BY FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (671) 273-8300, on August 9, 2005.


Kory D. Christensen

Docket No. 4000.2.44 (50588/44)
Digeo Ref. 145.1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Paul G. Allen and James A. Billmaier

Confirmation No. 1204

Application No. 09/916,635

Filed: July 27, 2001

For: **REMOTE CONTROL DEVICE WITH
INTEGRATED DISPLAY SCREEN
FOR CONTROLLING A DIGITAL
VIDEO RECORDER**

Group Art Unit: 2614

Examiner: Jean Wicel Desir

Date: August 8, 2005

RESPONSE TO NOTICE OF NON-COMPLIANT AMENDMENT

TO THE COMMISSIONER FOR PATENTS:

This is a response to the Notice of Non-Compliant Amendment allegedly mailed January 1, 2004 (copy enclosed). The applicants respectfully note that the aforementioned Notice could not have been mailed on January 1, 2004. First, the Notice references the applicants' amendment filed on May 27, 2004, which is after the date of the Notice. Second, the applicants received the Notice on June 24, 2005, more than a year after it was purportedly mailed.

Since receiving the amendment, the applicants' legal counsel has diligently attempted to contact Josephine Douglas, Legal Instruments Examiner, and her supervisor, Patience Resper, to determine (1) the date that the Notice was actually mailed (it is not shown in the File History of PAIR or the IFW), and (2) how to properly respond to the Notice, given that the Notice is factually incorrect (there are not two number "4" claims in the amendment as alleged in the Notice). The Applicants' counsel left numerous telephone messages for the aforementioned individuals, but the telephone messages were not returned.

The non-final rejection mailed January 26, 2004 indicated that the applicants had inadvertently included two number "4" claims. In the amendment filed May 27, 2004, the applicants complied with the Examiner's requirement by canceling the second instance of claim 4 as follows:

4. (original) (first instance) The remote control device of claim 2, wherein at least one user control is specifically-designated for displaying the EPG on the display screen of the remote control device.

4. (cancelled) (second instance).

The applicants' believe that the directive to cancel the second instance of claim 4, which was mentioned in the Remarks, should not have resulted in two number "4" claims as alleged by the Legal Instrument's Examiner.

Nevertheless, enclosed is a corrected section ("Listing of Claims") that strikes out the entire second instance of claim 4. The applicants believe that this cancellation method clearly indicates a desire to retain only the first instance of claim 4.

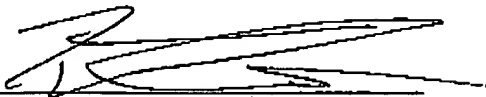
The applicants request that this response be entered without the payment of an extension fee, because the Notice is facially defective as to its date of mailing and the applicants were unable to contact the Legal Instruments Examiner or her supervisor to determine the proper date of mailing, despite many diligent attempts. Alternatively, the Office is respectfully requested to issue a new Notice of Non-Compliant Amendment with a new term for response.

The Director is hereby authorized to charge any necessary fee for this paper to Deposit Account No. 502375.

Respectfully submitted,

Digeo, Inc.

By



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Registration No. 43,548

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